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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/994,184
Filing Date: November 26, 2001
Appellant(s): BOCIONEK ET AL.

Steven H. Noll
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/22/07 appealing from the Office action mailed 6/2/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6359628	Buytaert	10-1998
6578002	Derzay	11-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buytaert, US Patent 6359628, and further in view of Derzay et al., US Patent 6578002.

As in Claim 1, Buytaert teaches a medical system architecture comprising a modality for acquiring examination images (Column 3, lines 16-20), a processor connected to the modality for processing the examination images (personal computer), a user interface for the processor (Fig. 3 and 4 with text), a transmission system connected to the processor for transmitting the examination images to a location remote from the processor (Column 5, lines 4-8 and Col. 6, lines 52-56), a memory connected to the transmission system for storing the examination images ("archive station", Col. 5, line 5 or alternative workstations Column 6, lines 52-56), an RIS Server (Col. 5 line 10) and the processor being programmed as an RIS client with an RIS mediator (Col. 6, line 54 et seq.) for exchanging text messages (identification information) and for displaying an RIS client window (Figure 3 and Column 6, lines 18-21) and for creating RIS interaction masks (Column 6, lines 50-52), at the interface and producing a network connection to an RIS server for communicating with the RIS client to allow transfer of

images via the RIS server for general purpose processing and analysis of said images using the RIS client window and the RIS interaction masks (Column 5, lines 2 et seq.). While Buytaert teaches the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location, they fail to show the RIS client to allow transfer of images from the same remote location that the images were transferred to previously as recited in this claim. In the same field of the invention, Derzay et al. teaches a modality image acquisition and RIS client interface similar to that of Buytaert. In addition, Derzay et al. further teaches the exchange of examination images in both directions through a uniform service platform (Column 7, lines 12 et seq.). It would have been obvious to one of ordinary skill in the art, having the teachings of Buytaert and Derzay et al. before him at the time the invention was made, to modify the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location taught by Buytaert to include the exchange of examination images in both directions of Derzay et al., in order to obtain a system for interactive exchange of examination images from remote locations. One would have been motivated to make such a combination because way to share and retrieve examination images at the user's convenience would have been obtained, as taught by Derzay et al.

As in Claim 2, Buytaert teaches the processor comprising RIS client software for processing the examination images (Column 5, lines 30-33).

As in Claim 3, Buytaert teaches the processor includes general operating software, and wherein the RIS client software is integrated into the general operating software (Column 5, lines 25-29).

As in Claim 4, Buytaert teaches the processor including RIS client software integrated into the user interface (Column 6, lines 10-12).

As in Claim 5, Buytaert teaches the processor including platform software, and wherein the RIS client software is integrated into the platform software (Figure 4).

As in Claim 6, Buytaert teaches the processor having a monitor (Figure 1, ref. 1), and wherein the processor is programmed for displaying the examination images on the monitor and for mixing the RIS client window into a display on the monitor next to the examination images (Column 4, lines 8-13).

As in Claim 7, Buytaert teaches modality for acquiring examination images, a processor, a transmission system for transmitting the examination images to a remote memory location, and the processor being programmed as an RIS client for exchanging text messages, displaying an RIS client window, simultaneously with the examination images on the processor's monitor (See Claim 6 rejection *supra*), and for creating RIS interaction masks, as well as a network connection for RIS server to RIS client communication (See Claim 1 rejection *supra*). While Buytaert teaches the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location with simultaneous display of the RIS client window and examination images, they fail to show an icon displayed on the monitor used to open the RIS client window as recited in this claim. In the same field of the invention, Derzay

et al. teaches a modality image acquisition and RIS client interface similar to that of Buytaert. In addition, Derzay et al. further teaches the processor displaying an icon on the monitor with which the RIS client window can be opened ("Main web page 110 may therefore be viewable by clicking an input device such as a mouse on an icon (not shown) on the normal operational screen.", Column 12, lines 24-26). It would have been obvious to one of ordinary skill in the art, having the teachings of Buytaert and Derzay et al. before him at the time the invention was made, to modify the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location with simultaneous display of the RIS client window and examination images taught by Buytaert to include the RIS client window icon of Derzay et al., in order to obtain an icon-activated RIS client window for image and data transmission specifications. One would have been motivated to make such a combination because a user-friendly input entry activation tool would have been obtained, as taught by Derzay et al.

As in Claim 8, Buytaert teaches a processor includes a user interface, and wherein the RIS client has a task card allocated thereto on the user interface (Figure 4).

As in Claim 9, Buytaert teaches a workflow associated with acquiring and processing and processing the examination images is controlled by the RIS client for automatic information transmission (Column 6, lines 57-63).

As in Claim 10, Buytaert teaches modality for acquiring examination images, a processor, a transmission system for transmitting the examination images to a remote memory location, and the processor being programmed as an RIS client for exchanging

text messages, displaying an RIS client window, simultaneously with the examination images on the processor's monitor (See Claim 6 rejection *supra*), and for creating RIS interaction masks, as well as a network connection for RIS server to RIS client communication (See Claim 1 rejection *supra*). While Buytaert teaches the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location, they fail to show the RIS client controlled image analysis as recited in this claim. In the same field of the invention, Derzay et al. teaches a modality image acquisition and RIS client interface similar to that of Buytaert. In addition, Derzay et al. further teaches the processor functioning as a control console for the modality, and wherein the RIS client supplies data for analyzing the examination images (Column 6, lines 15-24). It would have been obvious to one of ordinary skill in the art, having the teachings of Buytaert and Derzay et al. before him at the time the invention was made, to modify the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location taught by Buytaert to include the RIS client controlled image analysis of Derzay et al., in order to obtain client control of analyzing images for transmission. One would have been motivated to make such a combination because a user-customized method for routing images by content would have been obtained, as taught by Derzay et al.

As in Claim 11, Buytaert teaches modality for acquiring examination images, a processor, a transmission system for transmitting the examination images to a remote memory location, and the processor being programmed as an RIS client for exchanging text messages, displaying an RIS client window, simultaneously with the examination

images on the processor's monitor (See Claim 6 rejection *supra*), and for creating RIS interaction masks, as well as a network connection for RIS server to RIS client communication (See Claim 1 rejection *supra*). While Buytaert teaches the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location, they fail to show the statistics module as recited in this claim. In the same field of the invention, Derzay et al. teaches a modality image acquisition and RIS client interface similar to that of Buytaert. In addition, Derzay et al. further teaches the RIS client comprising a statistics module for evaluating data associated with the examination images (Column 20, lines 36-51). It would have been obvious to one of ordinary skill in the art, having the teachings of Buytaert and Derzay et al. before him at the time the invention was made, to modify the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location taught by Buytaert to include the RIS client statistics module of Derzay et al., in order to obtain a system for statistical analysis and processing of medical images. One would have been motivated to make such a combination because a strategic, mathematical image analysis would have been obtained, as taught by Derzay et al.

(10) Response to Argument

Buytaert teaches use of a Radiology Information System (RIS) within a Hospital Information System (HIS) (col. 5, lines 4-12) that captures medical radiology images, displays them onscreen and maps textual information onto the images, and then sends

this information to other devices within the HIS with the advantage of allowing the doctor to review the images in different rooms within the hospital (Col. 2, lines 58-66).

Derzay

The appellant's arguments beginning at the top of page 11, are directed to the Buytaert reference and states that Buytaert "does not provide any details or teachings as to how the RIS interacts with the overall system" and "does not provide any teachings as to how or even if, the RIS interacts with a user via display or user interface at a work station". The examiner notes that these statements stray from the language of the claims at hand. Claim 1 requires a modality to acquire examination images, connected to a processor with a user interface. This statement of user interface is broad and does not necessarily include a display. Buytaert does teach the modality, processor and user interface (Col. 3, lines 15-22).

In response to the appellant's arguments that Buytaert "does not display the images for the purposes of making a diagnostic analysis" the examiner notes that the analysis is done in the mind of the user, and is intended use. Even so, Buytaert teaches using the images to make diagnostic analysis (taught: implied: Col. 2, lines 58-65).

On page 12 of the appellant's brief (beginning line 17), the appellant states that even though Buytaert mentions display of RIS client windows, the only teaching of use of the RIS client windows is adding demographic patient information to the acquired images. This function acts as the RIS mediator for adding textual information (identification information) and interaction masks (Column 6, lines 50-52), to the client

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window interface. Further Buytaert teaches sending these images with the textual messages containing the demographic patient information (Column 5, lines 4-8 and Col. 6, lines 52-56) to a location remote from the processor but does not teach sending images from the remote location to the processor and a memory connected to the transmission system for storing the examination images ("archive station", Col. 5, line 5 or alternative workstations Column 6, lines 52-56).

Buytaert fails to show the RIS client to allow transfer of images from the same remote location that the images were transferred to previously as recited in the claims, however Derzay et al. teaches a modality image acquisition and RIS client interface that exchanges of examination images in both directions through a uniform service platform (Column 7, lines 12 et seq.).

Examiner makes further note that the "icons" discussed by the appellant on page 13 are not disclosed in the claimed subject matter.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Sara M Hanne/

Primary Examiner, Art Unit 2179

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/Weilun Lo/

Supervisory Patent Examiner, Art Unit 2179

/Steven Theriault/

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